REMARKS

Applicants have carefully reviewed this Application in light of the Office Action mailed March 25, 2008. Claims 1, 3, 6, and 8-10 are pending in this Application. Claims 1, 3, 6, and 8-10 were rejected under 35 U.S.C. § 102(b). Claims 2, 4, 5, and 7 were previously cancelled without prejudice of disclaimer Applicants have amended Claims 1 and 6 to correct formalities. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102

Claims 1, 3, 6, and 8 were rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,899,389 issued to Arpad M. Pataki et al. ("*Pataki*"). Claims 6 and 8-10 stand rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,470,548 issued to Shoji Ushimura ("*Ushimura*"). Claims 6 and 8-10 stand rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,982,901 issued to Volker Holzgrefe ("*901-Holzgrefe*"). Claims 6 and 8-10 stand rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,012,981 issued to Volker Holzgrefe et al. ("*981-Holzgrefe*"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

As an initial matter, Applicants reiterate by reference thereto their arguments and comments set forth in Applicants' Responses dated January 2, 2007, September 20, 2007, January 16, 2008 ("Applicants' Previous Responses"), and supplement such arguments with the additional comments set forth below. Applicants' decision not to repeat any such arguments below is not a concession that any such arguments are incorrect, invalid, or without merit.

Applicant respectfully submits that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, for the reasons set forth in Applicants' Previous Responses and the additional reasons set forth below.

Claims 1 and 3

Independent Claim 1 recites, among other elements, a fuel injection valve that includes a nozzle needle with a nozzle needle seat that includes "the outer surface of the conical nozzle needle tip provided ***directly adjacent*** the frusto-conical body section of the nozzle needle wherein the outer surfaces of a conical nozzle needle tip and of the frusto-conical body section of the nozzle needle each have an included angle, the included angle of the conical needle tip having an included angle essentially the same as the included angle of the frusto-conical body section of the nozzle needle."

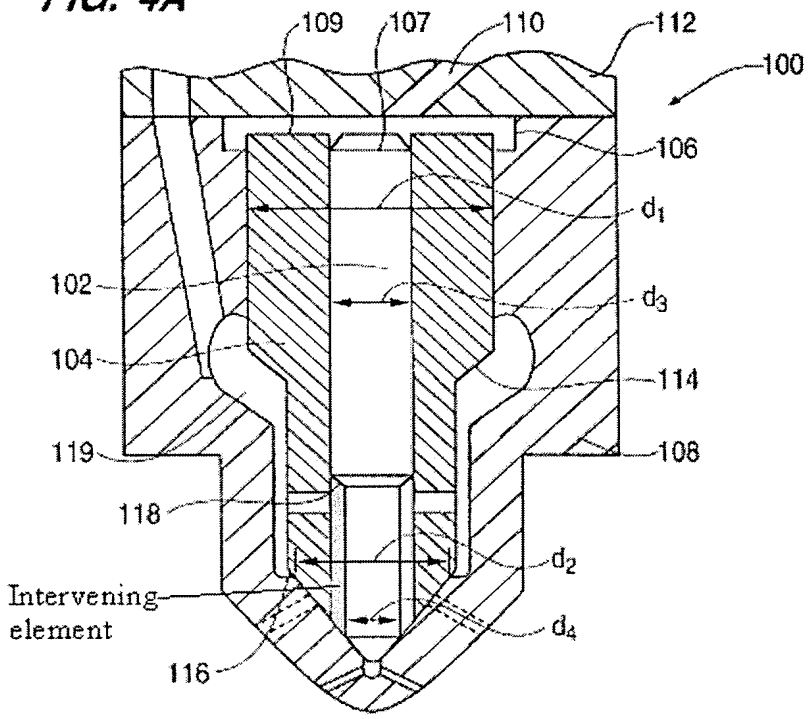
For the first time during the prosecution of this Application, the Examiner acknowledges that the term "directly adjacent" does preclude intervening structures. In addition, the Examiner alleges for the first time in the long prosecution history of this application, and in total contravention to statements made by the Examiner in prior office actions, that there are no intervening structures between the conical nozzle needle tip and the frusto-conical body section. In support of his response, the Examiner states that:

> Pataki shows, in figure 4A, a conical nozzle tip (the portion of valve element that is in contact with the valve seat of housing 108) directly adjacent to the frusto-conical body section (pressure surface 116). The sealing edges is the point at which the two surfaces meet. There is no intervening structure between Pataki's conical nozzle tip and the frusto-conical body section.

(Office Action, Page 4).

For the purposes of illustration, Figure 4A of *Pataki* appears on the following page with annotations added by the Applicants. Applicants submit that it is evident from the picture below that the element (pressure surface 116) the Examiner alleges to be the "frusto-conical body section" is not directly adjacent to the element (portion of element 104 in contact with valve seat of housing 108) the Examiner alleges to be the conical nozzle needle tip. In fact, as shown by the element that the Applicants have colored grey and labeled "Intervening element," an intervening element exists between the two structures identified by the Examiner.

FIG. 4A



Thus, Applicants again assert that, *Pataki*, on which Examiner relies for his rejection of Independent Claim 1, fails to disclose "a nozzle needle with a nozzle needle seat that includes "the outer surface of the conical nozzle needle tip provided ***directly adjacent*** the frusto-conical body section of the nozzle needle wherein the outer surfaces of a conical nozzle needle tip and of the frusto-conical body section of the nozzle needle each have an included angle, the included angle of the conical needle tip having an included angle essentially the same as the included angle of the frusto-conical body section of the nozzle needle." The structures of *Pataki* that the Examiner has equated to the "outer surface of the nozzle needle tip" and "frusto-conical section of the nozzle needle" are not directly adjacent in that there are one or more intervening elements.

Accordingly, for the reasons set forth above and in Applicants' Previous Responses, Pataki does not teach all of the elements of Claim 1 and, therefore, cannot anticipate Independent Claim 1 or Claim 3 that depends therefrom. Applicants request reconsideration, withdrawal of the rejection under 35 U.S.C. § 102(b) and full allowance of Claims 1 and 3.

Claims 6 and 8-10

Independent Claim 6 recites a fuel injection valve that includes a nozzle body including a nozzle body seat and a nozzle needle with a nozzle needle seat, with a gap formed between the nozzle needle and the nozzle body "such that the gap is configured to hydraulically dampen movement of the nozzle needle seat toward the nozzle body seat." As noted in Applicants' Previous Responses, the cited references do not disclose providing a gap designed for dampening of the motion between the nozzle body and the nozzle needle. In response, the Examiner argues:

> Regarding applicant's argument directed to the function language "configured to hydraulically dampen movement of the nozzle needle seat," the functional recitation merely requires the ability to perform. The prior art need not explicitly disclose that the prior art in fact performs the function. The prior art discloses the structural limitation of claim 6 and therefore is capable of performing the functional recitation.

(Office Action, Page 4).

The Examiner's argument ignores that fact that Claim 6 recites a structural recitation. Claim 6 requires that the claimed fuel injection valve be "configured" to provide the claimed dampening function, which implies that the fuel injection valve is structurally designed to provide the dampening function. The prior art does not disclose structural limitations operable to provide such dampening function.

Accordingly, for the reasons set forth above and in Applicants' Previous Responses, the cited references do not disclose all of the elements of Independent Claim 6. Applicants respectfully request reconsideration, withdrawal of the rejections under 35 U.S.C. § 102(b) and full allowance of Claims 6 and Claims 8-10 that depend therefrom.

CONCLUSION

Applicants appreciates the Examiner's careful review of the application. Applicants have now made an earnest effort to place this case in condition for examination and allowance. For the foregoing reasons, Applicants respectfully requests reconsideration of the rejections and full allowance of Claims 1, 3, 6 and 8-10, as amended.

Applicants believe no fees are due, however the Commissioner is hereby authorized to charge any fees necessary to Deposit Account No. 50-2148 of Baker Botts L.L.P in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2684.

Respectfully submitted,
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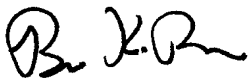

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